

CHAD MIZELLE  
Acting Associate Attorney General  
ABHISHEK S. KAMBLI  
Deputy Associate Attorney General  
YAAKOV M. ROTH  
Principal Deputy Assistant Attorney General  
Civil Division  
DREW C. ENSIGN  
Deputy Assistant Attorney General  
ELIANIS PEREZ  
Assistant Director  
LAUREN FASCETT  
Senior Litigation Counsel  
Office of Immigration Litigation  
General Litigation and Appeals Section  
*Attorneys for the United States*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF TEXAS,

Defendant.

Civ. No. 7:25-cv-00055-O

---

**PLAINTIFF'S OPPOSITION TO MOTION TO  
EXTEND TIME TO FILE A NOTICE OF APPEAL**

Plaintiff hereby responds to the Court's Order instructing that "Any party or Proposed Intervenor who will be opposed to SAT's motion for extension is DIRECTED to respond by no later than 1 PM on August 4, 2025." ECF No. 76. Plaintiff opposes Proposed Intervenor Students for Affordable Tuition's (SAT) motion for extension of time to file a notice of appeal under Federal Rule of Appellate Procedure 4(a)(5)(A). *See* ECF No. 75. Federal Rule of Appellate Procedure 4(a)(1)(B) states that a "notice of appeal may be filed by any party within 60 days after entry of

the judgment or order appealed from if one of the parties is: (i) the United States.” In this case, the United States sought invalidation of Texas Education Code §§ 54.051(m) and 54.052(a), which this Court granted on June 4, 2025, declaring those provisions of the Texas Code preempted by federal immigration law under 8 U.S.C. § 1623. *See* ECF No. 8. Despite the Court’s entry of a Final Order and Judgment and grant of the parties’ Joint Motion for Entry of a Consent Judgment, SAT, an alleged unincorporated association composed of students attending public colleges and universities in Texas, sought to intervene in this case under Federal Rule of Civil Procedure 24 for the limited purpose of appealing the Court’s decision. ECF Nos. 9 at 1 (SAT “seeks to intervene in this matter for purposes of an appeal because Defendant State of Texas will not appeal.”), 9-1 at 17 (“the intervention is for purposes of appeal”).

Now SAT, despite not being a party in this case—as the Court has not ruled on SAT’s motion to intervene—seeks to extend the appeal deadline beyond the 60-day time limit for a party to file a notice of appeal in a case involving the United States. *See* ECF No. 75. While Federal Rule of Appellate Procedure 4(a)(5) provides that a district court, upon a showing of excusable neglect or good cause, may extend the time for filing a notice of appeal upon motion filed not later than 30 days after the expiration of the time prescribed by this Rule 4(a), the Fifth Circuit has said “that the excusable neglect standard is a strict one and that a district court’s decision to grant or deny relief under Rule 4(a)(5) is reviewed only for abuse of discretion.” *Latham v. Wells Fargo Bank, N.A.*, 987 F.2d 1199, 1202 (5th Cir. 1993).

Here, the Court should deny SAT’s extension motion for the same reasons it should reject SAT’s proposed intervention; it is legally futile. SAT offers no valid legal challenge to the Court’s Final Order and Judgment and has not articulated any claim or defense that would alter the conclusion that the Texas statute at issue is preempted by federal law. “If the intervening party’s legal claim fails on the merits under clearly established law or a prior decision in the case, the

motion to intervene can be dismissed as futile.” *See King v. Flower Foods, Inc.*, No. 21-579-BAJ-SDJ, 2023 WL 2731041, at \*2 (M.D. La. Mar. 30, 2023) (*quoting In re Welded Constr., L.P.*, 618 B.R. 710, 723 (Bankr. D. Del. 2020)). Because the intervenor presents no grounds that would warrant a different legal outcome, its request to intervene and to extend the appeal deadline should be denied.

Wherefore, the Court should deny SAT’s motion to extend the appeal deadline.

DATED: August 4, 2025

Respectfully submitted,

CHAD MIZELLE  
Acting Associate Attorney General  
ABHISHEK S. KAMBLI  
Deputy Associate Attorney General  
YAAKOV M. ROTH  
Principal Deputy Assistant Attorney General  
Civil Division  
DREW C. ENSIGN  
Deputy Assistant Attorney General  
Civil Division

ELIANIS N. PÉREZ  
Assistant Director  
  
s/ Lauren E. Fascett  
LAUREN E. FASCETT  
Senior Litigation Counsel  
United States Department of Justice  
Civil Division  
Office of Immigration Litigation  
General Litigation and Appeals Section  
P.O. Box 868, Ben Franklin Station  
Washington, D.C. 20044  
Telephone: (202) 616-3466  
Fax: (202) 305-7000  
Email: lauren.fascett@usdoj.gov  
*Attorneys for the United States*

**CERTIFICATE OF SERVICE**

I certify that on August 4, 2025, a copy of the above was electronically filed with the Court's CM/ECF system and served on all counsel of record.

/s/ Lauren E. Fascett  
LAUREN E. FASCETT  
Senior Litigation Counsel